

FILED

2007 JUN 14 AM 10:16

RICHARD W. WILKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA

SCOTT N. SCHOOLS (SCSBN 9990)  
United States Attorney

JOANN M. SWANSON (CSBN 88143)  
Chief, Civil Division

STEPHEN L. JOHNSON (SBN 145771)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, CA 94102  
Tel. No. (415) 436-7161  
Fax No. (415) 436-7169

Attorneys for  
United States of America

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL J. DOHERTY,

Defendant.

) Case No. CR 93-0578 VRW

) **STIPULATION RE PROCEEDS FROM**  
) **SALE OF REAL PROPERTY SUBJECT**  
) **TO UNITED STATES' LIEN**

) **[2041 Seville Drive, Napa, California]**

The United States of America and defendant Michael Doherty, by and through their  
respective counsel, represent as follows:

**RECITALS**

A. On March 21, 1993, the District Court entered its Judgment in a Criminal Case  
(the "Judgment"), sentencing defendant to serve time in prison and to pay criminal monetary  
penalties consisting of a fine of \$3,400, and restitution of \$645,000. Thereafter, the United

STIPULATION RE PROCEEDS FROM SALE OF REAL  
PROPERTY SUBJECT TO UNITED STATES' LIEN  
CR 93-0578

1 States filed Notices of Liens to secure those obligations with the counties of Sonoma and Napa.

2 B. On application of the United States, the Court authorized the clerk to issue a Writ  
3 of Execution to sell certain real properties held by defendant Michael J. Doherty to satisfy his  
4 criminal restitution obligation. The writ issued on May 24, 2006, and real property located at  
5 2041 Seville Drive, Napa, California (the "Property") was thereafter levied.

6 C. On June 13, 2006, defendant filed a Motion to Quash the Writ of Execution on a  
7 variety of grounds, principally that he should be given credit for certain payments made by his  
8 company before it was taken over by a receiver and thereafter by the receiver.

9 D. Defendant has entered into a contract for the sale of the Property.

10 E. The United States has no objection to a sale of the Property so long as the terms  
11 are commercially reasonable and the sale proceeds are not reduced by obligations that do not  
12 have priority over the United States' lien. The United States agrees that the amount of any  
13 encumbrances (deeds of trust, liens) with priority over the United States' lien, any ordinary costs  
14 of sale, including title and escrow fees, commissions to real estate agents (not to exceed 6% of  
15 the selling price in total) may be deducted from the sales price before the net sale proceeds are  
16 calculated.

17 F. The parties have agreed that the Property can be sold, and the net proceeds of the  
18 sale should be deposited with the Clerk of the Court, pending resolution of the evidentiary  
19 hearing.

#### 20 STIPULATION

21 1. Defendant may sell the Property, currently subject to the United States' levy, so  
22 long as the net proceeds of sale, as defined in paragraph F above, are paid over to the Clerk of  
23 the Court.

24 2. The Clerk of Court for the Northern District of California shall accept from  
25 Fidelity National Title Company, a check made payable to "Clerk, United States District Court,"  
26 in the amount of the net proceeds of sale, and to hold such funds in the Clerk's Registry,

27 \\\

1 including interest earned thereon, pending the further order of this Court.

2  
3 SCOTT N. SCHOOLS  
4 United States Attorney

5 Dated: 6/11/07 By: /s/ Stephen L. Johnson  
6 STEPHEN L. JOHNSON  
7 Assistant U. S. Attorney  
8 Attorneys for the United States of America

9 SHIFMAN GROUP, ATTORNEYS

10 Dated: 6/09/07 /s/ Gail Shifman  
11 GAIL SHIFMAN  
12 Attorneys for Michael Doherty  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SCOTT N. SCHOOLS (SCSBN 9990)  
United States Attorney

JOANN M. SWANSON (CSBN 88143)  
Chief, Civil Division

STEPHEN L. JOHNSON (SBN 145771)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, CA 94102  
Tel. No. (415) 436-7161  
Fax No. (415) 436-7169

Attorneys for  
United States of America

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL J. DOHERTY,

Defendant.

) Case No. CR 93-0578 VRW

) **ORDER APPROVING STIPULATION**  
) **RE PROCEEDS OF SALE OF REAL**  
) **PROPERTY**

) **[2041 Seville Drive, Napa, California]**

**ORDER APPROVING STIPULATION  
[PROPOSED]**

The Court, having considered the Stipulation re Proceeds from Sale of Real Property, which arises out of a proposed sale of defendant's real property located at 2041 Seville Drive, Napa, California, the stipulation having been executed by the United States and defendant's counsel, and good cause appearing, hereby ORDERS as follows:

ORDER APPROVING STIPULATION  
CR 93-0578

1. the Stipulation is approved; and

2. The Clerk of Court for the Northern District of California shall accept from Chicago Title, 2480 Hilborn Road, Ste. 101, Fairfield CA 94534, a check in the amount of the net proceeds of the sale of 2041 Seville Drive, Napa, California, made payable to "Clerk, United States District Court," and to hold such funds in the Clerk's Registry, including interest earned thereon, pending the further order of this Court.

DATED:

*W. Walker* 6.14.07

VAUGHN R. WALKER  
CHIEF UNITED STATES DISTRICT JUDGE

*William Mary*

*Jen. Duty*